

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner, Mark Deuble, for the courtesy of the telephone call extended to Applicants Attorney, Enoch E. Peavey, on July 16, 2007.

During the telephone conversation, the Examiner indicated that the rejection of claims 3-5 and 7-9 under 35 U.S.C. § 112, second paragraph, would be withdrawn, and that the aforementioned claims would be placed in condition for allowance, if the preambles of these claims were amended to recite a “method of using” the presently claimed apparatus. Further, in a subsequent telephone call, the Examiner clarified that claim 10 should not have been listed among the claims rejected under 35 U.S.C. § 112, second paragraph, because this claim is in method form and is allowable.

Further, Applicants would also like to express their appreciation to the Examiner for the detailed Official Action provided. Additionally, Applicants also acknowledge with appreciation the indication that claims 1 and 6 are allowable on the Office Action Summary and on Page 4 of the Official Action; and that claims 3-5 and 7-10 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph.

However, Applicants note that the Examiner has not acknowledged that the drawings are acceptable, and it is requested that the Examiner indicate the acceptability of the drawings in the next Official Action. Additionally, Applicants also note that the Examiner has not acknowledged Applicants’ Claim for Priority and receipt of the certified copy of the priority document, and it is requested that the Examiner indicate the same in the next Official Action.

Further, Applicants submit that the instant amendment is proper for entry after final rejection. Applicants note that no question of new matter nor any new issues are raised in entering the instant amendment of the claims and that no new search would be required.

Moreover, Applicants submit that the instant amendment places the application in condition for allowance, or at least in better form for appeal.

Accordingly, Applicants request that the Examiner enter the instant amendment, consider the merits of the same, and indicate the allowability of the present application and each of the pending claims.

Upon entry of the above amendments claims 3-5 and 7-9 will have been amended. Claims 1 and 3-10 are currently pending. Applicants respectfully request reconsideration of the outstanding rejection, and allowance of all the claims pending in the present application.

In the Official Action, the Examiner has rejected claims 3-5 and 7-10 under 35 U.S.C. § 112, second paragraph for being indefinite. Initially, Applicants note that claim 10 should not have been listed among the claims rejected under 35 U.S.C. § 112, second paragraph, for reasons discussed *supra*. Further, in regard to the aforementioned rejection of claims 3-5 and 7-9, and without acquiescing to the propriety of the Examiner's rejection, the preambles of these claims have been amended to recite a "method of using" the presently claimed apparatus, as suggested by the Examiner and discussed *supra*.

Accordingly, the above-noted rejection of claims 3-5 and 7-10 under 35 U.S.C. § 112 is believed to be moot and should be withdrawn.

In view of the present remarks, Applicants submit that the rejection of claims 3-5 and 7-10 under 35 U.S.C. § 1.112 have been addressed by the present Response and Amendment (i.e., for reasons discussed supra). Thus, claims 1 and 3-10 (*which the Examiner has indicating as either being allowable or allowable if rewritten to overcome the rejection under 35 U.S.C. § 112*) are in condition for allowance.

SUMMARY

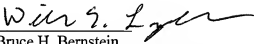
Applicants submit that the present application is in condition for allowance, and respectfully request an indication to that effect. Applicants have amended the claims (i.e., claims 3-5 and 7-9 which were rejected under 35 U.S.C. § 112) in accordance with the Examiner's suggestions, as discussed supra. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

Applicants note that this amendment is being made solely to advance prosecution of the application to allowance and should not be considered as surrendering equivalents of the territory between the claim prior to the present amendment and the amended claim. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All amendments to the claims which have been made in this paper should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Applicants note the status of the present application as being after final rejection and with respect to such status believes that there is a clear basis for the entry of the present amendment consistent with 37 C.F.R. § 1.116. Applicants note amendments after final are not entered as a matter of right; however, Applicants submit that the present amendment does not raise new issues or the question of new matter. Moreover, the present amendment clearly places the present application in condition for allowance, i.e., by amending the preambles of claims 3-5 and 7-9 (which were rejected under 35 U.S.C. § 112), as suggested by the Examiner.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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